

Health, Education, Labor, and Pensions be discharged from further consideration of S. 1041 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1041) to establish a program for an information clearinghouse to increase public access to defibrillation in schools.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent the bill be read a third time, passed, the motion to reconsider be laid on the table, and that any statements related to the bill be printed in the RECORD as if given, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1041) was read the third time and passed, as follows:

S. 1041

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Automatic Defibrillation in Adam's Memory Act", or the "ADAM Act".

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Heart disease is the leading cause of death in the United States.

(2) 220,000 Americans die each year of sudden cardiac arrest.

(3) The American Heart Association estimates that the lives of 50,000 cardiac arrest victims could be saved each year through initiating a course of action known as the chain of survival.

(4) The chain of survival includes prompt notification of emergency services and early cardiopulmonary resuscitation (referred to in this Act as "CPR"), defibrillation, and advanced cardiac life support.

(5) An important part of United States school children's education is learning healthy behaviors, including proper nutrition and physical activity. This health education should also include basic emergency lifesaving skills.

(6) Incorporating these lifesaving training programs into the health curriculum of elementary and secondary schools will give school children these skills.

(7) Project Automatic Defibrillation in Adam's Memory (ADAM) has been successful in fostering awareness of the potential for cardiac arrest in the childhood and adolescent population, encouraging improvement of screening procedures, and facilitating the training of high school staff and students in CPR and the use of automatic external defibrillators (referred to in this Act as "AED").

#### SEC. 3. GRANTS FOR ACCESS TO DEFIBRILLATION.

(a) PROGRAM AUTHORIZED.—The Secretary of Health and Human Services shall award a grant to an organization to establish national information clearinghouse that provides information to increase public access to defibrillation in schools.

(b) DUTIES.—The health care organization that receives a grant under this section shall promote public access to defibrillation in schools by—

(1) providing timely information to entities regarding public access defibrillation program implementation and development;

(2) developing and providing comprehensive program materials to establish a public access defibrillation program in schools;

(3) providing support to CPR and AED training programs;

(4) fostering new and existing community partnerships with and among public and private organizations (such as local educational agencies, nonprofit organizations, public health organizations, emergency medical service providers, fire and police departments, and parent-teacher associations) to promote public access to defibrillation in schools;

(5) establishing a data base to gather information in a central location regarding sudden cardiac arrest in the pediatric population and identifying or conducting further research into the problem; and

(6) providing assistance to communities that wish to develop screening programs for at risk youth.

(c) APPLICATION.—A health care organization desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(d) REPORT.—Not later than 5 years after receipt of a grant under this section, the health care organization that receives such grant shall prepare and submit to the Secretary of Health and Human Services a report that describes activities carried out with funds received under this section. Not later than 3 months after receipt of such report, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress an evaluation that reviews such report and evaluates the success of such clearinghouse.

(e) AUTHORIZATION OF APPROPRIATIONS.—From funds authorized to be appropriated for fiscal years 2002 through 2006 for activities and programs under the Department of Health and Human Services, \$800,000 of such funds may be appropriated to carry out the programs described in this Act for each of the fiscal years 2002 through 2006.

#### PATENT AND TRADEMARK OFFICE AUTHORIZATION ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 2047 and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2047) to authorize appropriations for the United States Patent and Trademark Office for the fiscal year 2002, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I understand Senators LEAHY and HATCH have a substitute amendment at the desk, and I ask for its immediate consideration; that the amendment be agreed to and the motion to reconsider be laid upon the table; that the bill, as amended, be read three times, passed, the motion to reconsider be laid on the table; that the title amendment be agreed to; that any statements relating thereto be printed in the RECORD at the appropriate place as if given.

Mr. REID. Without objection, it is so ordered.

The amendment (No. 4113) was agreed to, as follows:

(Purpose: To authorize appropriations for the United States Patent and Trademark Office for fiscal years 2003 through 2008, and for other purposes)

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent and Trademark Office Authorization Act of 2002".

#### SEC. 2. AUTHORIZATION OF AMOUNTS AVAILABLE TO THE PATENT AND TRADEMARK OFFICE.

(a) IN GENERAL.—There are authorized to be appropriated to the United States Patent and Trademark Office for salaries and necessary expenses for each of the fiscal years 2003 through 2008 an amount equal to the fees estimated by the Secretary of Commerce to be collected in each such fiscal year, respectively, under—

(1) title 35, United States Code; and

(2) the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the Trademark Act of 1946).

(b) ESTIMATES.—Not later than February 15, of each fiscal year, the Undersecretary of Commerce for Intellectual Property and the Director of the Patent and Trademark Office (in this Act referred to as the Director) shall submit an estimate of all fees referred to under subsection (a) to be collected in the next fiscal year to the chairman and ranking member of—

(1) the Committees on Appropriations and Judiciary of the Senate; and

(2) the Committees on Appropriations and Judiciary of the House of Representatives.

#### SEC. 3. ELECTRONIC FILING AND PROCESSING OF PATENT AND TRADEMARK APPLICATIONS.

(a) ELECTRONIC FILING AND PROCESSING.—Not later than December 1, 2004, the Director shall complete the development of an electronic system for the filing and processing of patent and trademark applications, that—

(1) is user friendly; and

(2) includes the necessary infrastructure to—

(A) allow examiners and applicants to send all communications electronically; and

(B) allow the Office to process, maintain, and search electronically the contents and history of each application.

(b) AUTHORIZATION OF APPROPRIATIONS.—Of amounts authorized under section 2, there are authorized to be appropriated to carry out subsection (a) of this section not more than \$50,000,000 for each of fiscal years 2003 and 2004. Amounts made available under this subsection shall remain available until expended.

#### SEC. 4. ANNUAL REPORTS ON STRATEGIC PLAN.

In each of the 5 calendar years following the date of enactment of this Act, the Secretary of Commerce shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives on—

(1) the progress made in implementing the 21st Century Strategic Plan issued on June 3, 2002; and

(2) any amendments made to the plan.

#### SEC. 5. DETERMINATION OF SUBSTANTIAL NEW QUESTION OF PATENTABILITY IN REEXAMINATION PROCEEDINGS.

(a) IN GENERAL.—Sections 303(a) and 312(a) of title 35, United States Code, are each amended by adding at the end the following: "The existence of a substantial new question of patentability is not precluded by the fact

that a patent or printed publication was previously cited by or to the Office or considered by the Office.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to any determination of the Director of the United States Patent and Trademark Office that is made under section 303(a) or 312(a) of title 35, United States Code, on or after the date of the enactment of this Act.

#### **SEC. 6. APPEALS IN INTER PARTES REEXAMINATION PROCEEDINGS.**

(a) **APPEALS BY THIRD-PARTY REQUESTER IN PROCEEDINGS.**—Section 315(b) of title 35, United States Code, is amended to read as follows:

“(b) **THIRD-PARTY REQUESTER.**—A third-party requester—

“(1) may appeal under the provisions of section 134, and may appeal under the provisions of sections 141 through 144, with respect to any final decision favorable to the patentability of any original or proposed amended or new claim of the patent; and

“(2) may, subject to subsection (c), be a party to any appeal taken by the patent owner under the provisions of section 134 or sections 141 through 144.”.

(b) **APPEAL TO BOARD OF PATENT APPEALS AND INTERFERENCES.**—Section 134(c) of title 35, United States Code, is amended by striking the last sentence.

(c) **APPEAL TO COURT OF APPEALS FOR THE FEDERAL CIRCUIT.**—Section 141 of title 35, United States Code, is amended in the third sentence by inserting “, or a third-party requester in an inter partes reexamination proceeding, who is” after “patent owner”.

(d) **EFFECTIVE DATE.**—The amendments made by this section apply with respect to any reexamination proceeding commenced on or after the date of the enactment of this Act.

The amendment (No. 4115) was agreed to, as follows:

Amend the title so as to read: “A bill to authorize appropriations for the United States Patent and Trademark Office for fiscal years 2003 through 2008, and for other purposes.”.

The bill (H.R. 2047), as amended, was read the third time and passed.

#### **AUTHORIZING APPROPRIATIONS FOR THE U.S. PATENT AND TRADEMARK OFFICE FOR FISCAL YEARS 2002 THROUGH 2007**

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to Calendar No. 426, S. 1754.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 1754) to authorize appropriations for the United States Patent and Trademark Office for fiscal years 2002 through 2007, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which was reported from the Committee on the Judiciary with an amendment in the nature of a substitute, and an amendment to the title.

[Strike the part in black brackets and insert in lieu thereof the part printed in italic.]

S. 1754

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### **[SECTION 1. SHORT TITLE.]**

[This Act may be cited as the “Patent and Trademark Office Authorization Act of 2002”.

#### **[SEC. 2. AUTHORIZATION OF AMOUNTS AVAILABLE TO THE PATENT AND TRADEMARK OFFICE.]**

[(a) **IN GENERAL.**—There are authorized to be appropriated to the United States Patent and Trademark Office for salaries and necessary expenses for each of the fiscal years 2002 through 2007 an amount equal to the fees estimated by the Secretary of Commerce to be collected in each such fiscal year, respectively, under—

[(1) title 35, United States Code; and

[(2) the Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the Trademark Act of 1946).

[(b) **ESTIMATES.**—Not later than February 15, of each fiscal year, the Undersecretary of Commerce for Intellectual Property and the Director of the Patent and Trademark Office (in this Act referred to as the Director) shall submit an estimate of all fees referred to under subsection (a) to be collected in the next fiscal year to the chairman and ranking member of—

[(1) the Committees on Appropriations and Judiciary of the Senate; and

[(2) the Committees on Appropriations and Judiciary of the House of Representatives.

#### **[SEC. 3. ELECTRONIC FILING AND PROCESSING OF PATENT AND TRADEMARK APPLICATIONS.]**

[(a) **ELECTRONIC FILING AND PROCESSING.**—The Director shall, during the 3-year period beginning December 1, 2001, develop an electronic system for the filing and processing of patent and trademark applications, that—

[(1) is user friendly; and

[(2) includes the necessary infrastructure—

[(A) to allow examiners and applicants to send all communications electronically; and

[(B) to allow the Office to process, maintain, and search electronically the contents and history of each application.

[(b) **AUTHORIZATION OF APPROPRIATIONS.**—Of amounts authorized under section 2, there is authorized to be appropriated to carry out subsection (a) of this section not more than \$50,000,000 for each of fiscal years 2002 and 2003. Amounts made available pursuant to this subsection shall remain available until expended.

#### **[SEC. 4. STRATEGIC PLAN.]**

[(a) **DEVELOPMENT OF PLAN.**—The Director shall, in close consultation with the Patent Public Advisory Committee and the Trademark Public Advisory Committee, develop a strategic plan that sets forth the goals and methods by which the United States Patent and Trademark Office will, during the 5-year period beginning on October 1, 2002—

[(1) enhance patent and trademark quality;

[(2) reduce patent and trademark pendency; and

[(3) develop and implement an effective electronic system for use by the Patent and Trademark Office and the public for all aspects of the patent and trademark processes, including, in addition to the elements set forth in section 3, searching, examining, communicating, publishing, and making publicly available, patents and trademark registrations.

The strategic plan shall include milestones and objective and meaningful criteria for evaluating the progress and successful achievement of the plan. The Director shall consult with the Public Advisory Committees with respect to the development of each aspect of the strategic plan.

[(b) **REPORT TO CONGRESSIONAL COMMITTEES.**—The Director shall, not later than February 15, 2002, or 4 months after the date of the enactment of this Act, whichever is

later, submit the plan developed under subsection (a) to the Committees on the Judiciary of the Senate and the House of Representatives.

#### **[SEC. 5. DETERMINATION OF SUBSTANTIAL NEW QUESTION OF PATENTABILITY IN REEXAMINATION PROCEEDINGS.]**

[(a) **IN GENERAL.**—Sections 303(a) and 312(a) of title 35, United States Code, are each amended by adding at the end the following: “The existence of a substantial new question of patentability is not precluded by the fact that a patent or printed publication was previously cited by or to the Office or considered by the Office.”.

[(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to any determination of the Director of the United States Patent and Trademark Office that is made under section 303(a) or 312(a) of title 35, United States Code, on or after the date of the enactment of this Act.

#### **[SEC. 6. APPEALS IN INTER PARTES REEXAMINATION PROCEEDINGS.]**

[(a) **APPEALS BY THIRD-PARTY REQUESTER IN PROCEEDINGS.**—Section 315(b) of title 35, United States Code, is amended to read as follows:

[(b) **THIRD-PARTY REQUESTER.**—A third-party requester—

[(1) may appeal under the provisions of section 134, and may appeal under the provisions of sections 141 through 144, with respect to any final decision favorable to the patentability of any original or proposed amended or new claim of the patent; and

[(2) may, subject to subsection (c), be a party to any appeal taken by the patent owner under the provisions of section 134 or sections 141 through 144.”.

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[(c) **APPEAL TO COURT OF APPEALS FOR THE FEDERAL CIRCUIT.**—Section 141 of title 35, United States Code, is amended in the third sentence by inserting “, or a third-party requester in an inter partes reexamination proceeding, who is” after “patent owner”.

[(d) **EFFECTIVE DATE.**—The amendments made by this section apply with respect to any reexamination proceeding commenced on or after the date of the enactment of this Act.

#### **SECTION 1. SHORT TITLE.**

*This Act may be cited as the “Patent and Trademark Office Authorization Act of 2002”.*

#### **SEC. 2. AUTHORIZATION OF AMOUNTS AVAILABLE TO THE PATENT AND TRADEMARK OFFICE.**

(a) **IN GENERAL.**—There are authorized to be appropriated to the United States Patent and Trademark Office for salaries and necessary expenses for each of the fiscal years 2003 through 2008 an amount equal to the fees estimated by the Secretary of Commerce to be collected in each such fiscal year, respectively, under—

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(b) **ESTIMATES.**—Not later than February 15, of each fiscal year, the Undersecretary of Commerce for Intellectual Property and the Director of the Patent and Trademark Office (in this Act referred to as the Director) shall submit an estimate of all fees referred to under subsection (a) to be collected in the next fiscal year to the chairman and ranking member of—

(1) the Committees on Appropriations and Judiciary of the Senate; and

(2) the Committees on Appropriations and Judiciary of the House of Representatives.